

other side and by Mr. PERLMUTTER from our side about this provision.

It is clear that certainty has value. But certainty when certainty is unfair and when you are trying to discourage a particular act such as steering a borrower to a higher priced loan, if you don't put in the bill the ability of people to get the actual damages that they incur as a result of being steered to a higher priced loan, then you are not going to deter the activity. Many unsavory people will treat this just as a cost of doing business because the reward for steering is so high that they can incur that risk for nine transactions and get rewarded and pay the cost of the risk on the one transaction that they might get caught on.

So if you really want to deter people from steering to the highest cost loan, you've got to provide an effective remedy that deters them from doing that. That's all I am trying to do. If people don't engage in this activity, there are no remedies. We don't even need any remedies. But where they engage in an activity that we have acknowledged under the bill is an undesirable activity, we have outlawed it. We have said thou shalt not steer to a higher cost loan. If you don't provide a remedy that is commensurate with that, then what you are saying to the market is you don't really care.

So I think this amendment is good, and I encourage my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BACHUS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina will be postponed.

AMENDMENT NO. 16 OFFERED BY MR. PRICE OF GEORGIA

The CHAIRMAN. It is now in order to consider amendment No. 16 printed in House Report 110-450.

Mr. PRICE of Georgia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. PRICE of Georgia:

Page 36, line 25, insert "or a qualified mortgage (as defined in section 129B(c)(3)(B))" before the period at the end.

The CHAIRMAN. Pursuant to House Resolution 825, the gentleman from Georgia (Mr. PRICE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. PRICE of Georgia. Mr. Chairman, I want to draw my colleagues' attention to what it is we are doing here today and what they think we might be

doing. I would suggest, Mr. Chairman, today we are considering legislation that will change the way the mortgage industry is regulated in its entirety. Not just for the subprime market, in its entirety.

I and others are fond of saying that Congress does two things very well: one is nothing and two is overreact. And here today we are considering what the Wall Street Journal has dubbed the Sarbanes-Oxley for the housing industry. As you will recall, Mr. Chairman, there is general consensus that the Sarbanes-Oxley legislation that was passed was indeed an overreaction and resulted in damage to the business arena and also decreased jobs across our Nation.

What the Wall Street Journal has said about this bill is that it's "an attempt to punish business in general for the excesses of an unscrupulous few and the perverse incentives created by Washington policy." Hence Sarbanes-Oxley for the housing industry.

Now, we have had a period here where some credit, some loans were unwisely given and that allowing individuals, allowing Americans to purchase homes and to realize their American Dream is a good thing.

For this reason I am offering an amendment that would limit this legislation to the area of lending that is of most concern today, that is, the subprime arena. Again, this bill regulates more than just the subprime market. Despite the fact that at our hearing in our committee on the legislative proposals, and we had an array of witnesses from all across the market and all across the political spectrum, during 9 hours of hearings, not a single individual, not one, advocated that we change the way that all mortgages are regulated. But that's what we are doing here with this bill today.

What we heard from those testifying was that they agreed that the subprime market might be underregulated, but not the prime market, not the jumbo market, not the other markets. What they said was that something needed to be done with the subprime market. Now, why are we here today? Well, there must be something else going on.

Later in that hearing, Chairman FRANK asked the third panel, comprised of representatives of various segments of the industry, a similar question: Do you think that all of the loans that were made over the last couple of years in the subprime area should have been made? And the panel's answer was clear: no, not all loans.

It's worth noting that Mr. Lackritz, the president and CEO of the Securities Industry and Financial Markets Association, appropriately pointed out to the chairman that there was obviously credit that was imprudently granted, but that we have to also think at the same time that it's important that we take a lot of pride in what this committee has done and in what the industry has done to broaden the circle of homeownership. Don't ban that, he

said. Don't ban that. Yet that's exactly what will happen if this legislation passes.

Mr. Dugan, from the Office of the Comptroller of the Currency, testified that as a result of this legislation "some creditworthy borrowers would be denied loans."

For that reason, I believe it is important that we focus and take a measured approach. Adopt this amendment and we will confine the bill to the area that everyone says needs some assistance, where everyone says there is a problem: the subprime arena.

Mr. Chairman, there are 44 million mortgages out there across our Nation. Fourteen percent of them are in the subprime arena. Fifteen percent of those are challenged. That is a challenge for those individuals who are having that difficulty right now, but that doesn't call for entire re-regulation of the overall market. In the prime area, 3 percent of those loans are challenged. All loans, all loans, including prime loans, would be subject to the murky new requirements of this legislation which would require lenders to determine if borrowers have "a reasonable ability to pay" or a "net tangible benefit" from the refinancing of their loan. There is no reason to restrict the availability and the affordability of prime loans to eligible borrowers, especially when we have demonstrated how well these loans are operating even in today's market.

For that reason, I urge the adoption of the amendment. Let's not subject prime loans that are operating well today to the same burdensome regulation that is proposed for subprime loans.

Mr. Chairman, I yield back the balance of my time.

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Mr. SCOTT of Georgia. I rise to oppose the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. SCOTT of Georgia. Mr. Chairman, the Price amendment attempts to exempt prime loans from the requirement of the bill. The Price amendment takes out prime loans from the definition of residential mortgage loans. Now, Mr. Chairman, this is one of the most significant financial crises that has impacted every sphere of our economy. While, yes, subprime issues may be at the eye of the storm, these winds are howling and they are blowing fierce and hard throughout every length and breadth of this country. More than three-fourths of Americans with mortgages have prime loans. The Price amendment will do one essential thing. It will deprive the vast majority of Americans, 78 percent of Americans will be deprived by his amendment of the many important critical protections in this bill.

Mr. Chairman, all Americans need consumer protections against risky loans. This crisis has weakened the entire American economy. Look at